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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

ALBERTO WILLIAM VILAR and  
GARY ALAN TANAKA,

Defendants.

No. 05 Crim. 621 (RJS)  
ORDER

RICHARD J. SULLIVAN, District Judge:

The Clerk of the Court is respectfully directed to docket the attached letter.

SO ORDERED.

Dated: October 7, 2009  
New York, New York

  
RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

October 7, 2009

**By Hand**

The Honorable Richard J. Sullivan  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: United States v. Vilar and Tanaka,  
S3 05 Cr. 621 (RJS)**

Dear Judge Sullivan:

The Government respectfully submits this letter in connection with the sentencing memorandum filed by the Government in the above-captioned case on October 2, 2009. The Government inadvertently failed to attach as an exhibit certain notes referred to in the paragraph that begins at the bottom of page 22 of that memorandum. Accordingly, we attach those notes hereto as Exhibit R (GX 3363-11-N/A). The Government respectfully requests that the Court file this letter and the attached exhibit on the docket.

Respectfully submitted,

PREET BHARARA  
Acting United States Attorney

By:

A handwritten signature in black ink, appearing to read "Marc Litt", is written over the typed name.

Marc Litt  
Benjamin Naftalis  
Joshua Klein  
Assistant United States Attorneys  
(212) 637-2295/2456/2397

cc: Defense Counsel (by email)

## **EXHIBIT R**

May 25, 2005.

$$\begin{array}{r}
 \textcircled{1} \quad \$14,000,000.00 \quad \$450,000.00 \\
 \text{Dextra Custodial Fee:} \quad 6,450.00 \\
 \hline
 \$456,450.00
 \end{array}$$

②. Accumulated Interest A/C

$$\$5,204,738.91 \times 0.032165 = \$167,410.42$$

③ Wayne Lewis' Fee

$$\$89,334.00$$

④. Adjustment for overpayment  
of Wayne Lewis' Fee

$$(\$148,890.00)$$

⑤. Unpresented cheque  
#1882 in the sum of \$1,929.90  
+ interest \$455.93

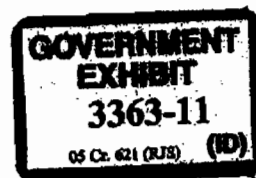
$$(\$2,385.83)$$

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$$\$561,918.59$$


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to pay.



Dextra Custodial Fee calculation:

$$\frac{1}{80} \text{ of } 1\% = 0.000375$$

AUK-36-04539

GX 3363-11-N/A

Notes to File: May 12, 05.

- ①. August 25, 03. redemption of Dextra A/C. = \$4,880,000.00.  
There have been \$30,000.00 per year withdrawals over 4 years. These withdrawals have been deducted from the Accumulated Interest A/C. Therefore Dextra A/C has always been shown as "\$5,000,000.00. for the purpose of easier account ref.
- ②. Upon the withdrawal on 25 Aug 03 Finder's Fee of Wayne Lewis and Dextra Custodial Fee should have been adjusted accordingly. Only the Dextra Custodial Fee was reduced.
- ③. Wayne Lewis Finder's Fee had already been previously ~~overpay~~ overpaid and the sums were re-paid quarterly hence the overlook that it has happened again.
- ④. Since Nov 25, 03 up and including of Feb 25, 05 there have been 6 quarters.
- ⑤. Since Nov 25, 03 the total sum of "Dextra Deposit Note" is \$18,000,000.00. \* Therefore Finder's fee are due on this amount.
- ⑥. Finder's fee from Nov 25, 03 ~~is~~ is \$89,334.  
Overpayment of \$24,815 per quarter. AUK-36-04540
- ⑦. Overpayment of \$148,890.00 over 6 quarters + interest

Notes to file May 12, 05.

- ⑧ Interest has been calculated at 13.5% compounded, comes to \$13,142.35.
- ⑨ Total amount of \$162,032.35 to be deducted from May quarterly payment.

AUK-36-04541

May 12, 05

Finder's fee Formula

$$\$y \times 0.004963 =$$

Correct calculation of finders' fee due since  
Nov 25, 2003:

$$\$18,000,000.00 \times 0.004963 = \$89,334.$$

Previous Finder's Fee: \$114,149.00.

Overpayment of: \$24,815.000

$$\$24,815 \times 6 = \$148,890.00.$$

AUK-36-04542

Calculation of interest on \$24,815.00 per quarter  
at 13.5% per annum. (6 quarters)

- ① \$24,815 = \$837.50
- ② \$25,652.50 = \$865.77
- ③ \$26,518.27 = \$894.99
- ④ \$27,413.26 = \$925.19
- ⑤ \$28,338.45 = \$956.42
- ⑥ \$29,294.87

Total amount due for 6 quarters on the \$148,880.00

29,294.87
28,338.45
27,413.26
26,518.27
25,652.50
24,815.00
<u>162,032.35</u>

AUK-36-04543

February 25, 2005,

$$\textcircled{1}. \$14,000,000.00 - \$450,000.00$$

$$\text{Dextra Custodial Fee} \sim \frac{6,795.00}{457,105.00}$$

$\textcircled{2}$ . Accumulated Interest A/C

$$\$6,004,738.91 \times 0.032165 = \$193,142.42$$

$$\textcircled{3}. \text{Wayne Lewis' Fee} \quad \$114,149.00$$

$$\textcircled{4}. \text{Withdrawal of:} \quad \$800,000.00$$

from Accumulated A/C.

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$$\$1,564,396.42.$$

Note:

Adjust Dextra Custodial Fee & Wayne Lewis' Fee next quarter.

November 25, 04

$$\begin{array}{r}
 \textcircled{1}. \$14,000,000.00 - \$450,310.00 \\
 \text{Extra Custodial Fee} - 6,795.00 \\
 \hline
 \$457,105.00
 \end{array}$$

$$\begin{array}{l}
 \textcircled{2}. \text{Accumulated interest A/C} \\
 \$6,004,738.91 \times 0.032165 = \$193,142.42
 \end{array}$$

$$\begin{array}{l}
 \textcircled{3}. \text{Wayne Lewis Fee :} \\
 \$114,149.00
 \end{array}$$

$$\begin{array}{l}
 \textcircled{4}. \text{Repayment of A/C II} \\
 \$500,000.00 \\
 \hline
 \$1,264,396.42 \\
 \hline
 \hline
 \end{array}$$